



213 South 12th Avenue • P.O. Box 428
YAKIMA, WASHINGTON 98902
Telephone (509) 453-1319
Facsimile (509) 453-4704
Email: mbos@strattonballew.com

18850 103rd Avenue S.W. • P.O. Box 636
VASHON, WASHINGTON 98070-0636
Telephone (206) 682-1496
Facsimile (206) 260-3816

PATRICK H. BALLEW, P.S.
MICHELLE BOS[†]
QUINTEN S. BOWMAN
REX B. STRATTON, P.S.
CHRIS E. SVENDSEN[†]
†Registered Patent Attorneys

GEORGE A. CASHMAN
1922-1997

REPLY TO YAKIMA

FACSIMILE TRANSMISSION COVER SHEET

Date: January 10, 2007

Our File No.: **HR1.P04**

Number of Pages: (not including this page)

To: **Bridget Monroe, Patent Appeal Center Specialist**
Company Name: **U.S. Patent and Trademark Office**
Facsimile No.: **(571) 273-1651**
Office No.: **(571) 272-1651**
From: **Michelle Bos**

SPECIAL HANDLING INSTRUCTIONS:

Please confirm receipt: Yes*__ No__

Operator: mb

**To confirm receipt of this transmission, please send this page back to us. Thank you.*

If you do not receive all pages or if any pages need to be resent, please call 509-453-1319.

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY/CLIENT PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU

PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET, COMPUTER, AND TECHNOLOGY RELATED LAW

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

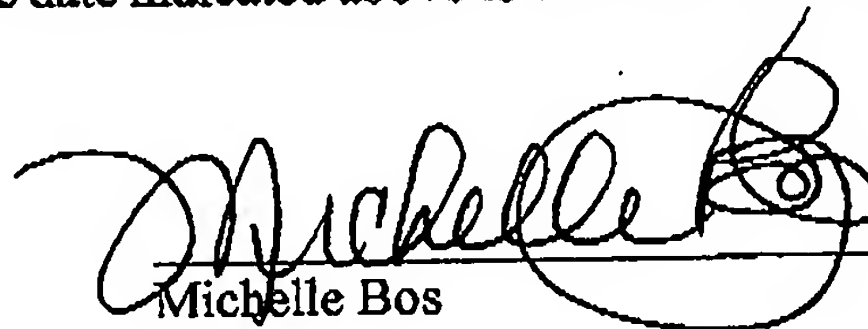
Applicant: Peter Collinge
Serial No.: 10/032,692
Title of Invention: APPLE VARIETY NAMED 'CJ07'
Filing Date: December 27, 2001
Examiner: S. McCormick-Ewoldt, Art Unit 1661
Docket: HR1.P04

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF TRANSMITTAL BY FACSIMILE

Fax No.: (571) 273-1651
Date of Transmission: January 10, 2007

I hereby certify that the attached Response to Notice of Non-Compliant Appeal Brief is being transmitted via facsimile on the date indicated above to the Commissioner for Patents, Alexandria, Virginia 22313-1450.


Michelle Bos

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Peter Collinge
Serial No.: 10/032,692
Title of Invention: APPLE VARIETY NAMED 'CJ07'
Filing Date: December 27, 2001
Examiner: S. McCormick-Ewoldt, Art Unit 1661
Docket N°: HR1.P04

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

January 10, 2007
Yakima, Washington 98902

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Sir:

This response is submitted in reply to the Notification of Non-Compliant Appeal Brief dated January 4, 2007. No fees are required with this response.

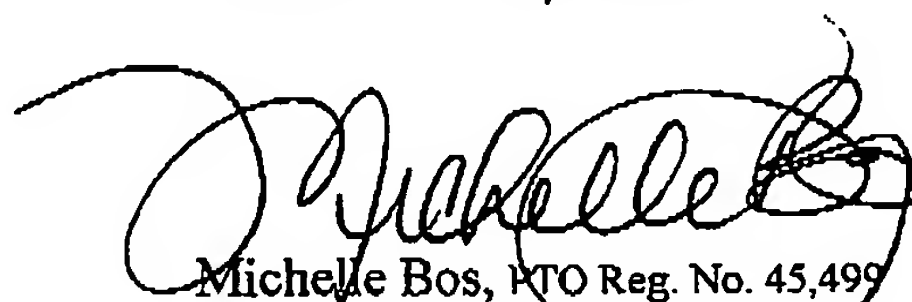
The appeal brief filed November 27, 2006 was found by the Patent Office to be defective. More specifically, the Patent Appeal Center Specialist indicated that the brief failed to provide a concise explanation of the subject matter defined in the claim, and further that the brief failed to include a "Related Proceedings Appendix."

Applicant's attorney spoke with Ms. Bridget Monroe in the Patent Appeal Center on January 8, 2007. Applicant clarified that the application at issue is a plant patent application under Sections 161 et seq. As such, the application contains a single statutory claim identifying the invention as the plant shown and described in the specification. Reference to a particular page, line or figure in the specification is not necessary to define the scope of the claim on appeal. In light of the foregoing explanation, Ms. Monroe agreed to withdraw the requirement that further information be provided regarding the scope of the claimed subject matter.

The appeal brief filed November 27, 2006 included a "Related Proceedings Appendix" labeled as paragraph 10 and found on page 23. This page was somehow skipped in the PTO scanning process, and does not appear in the electronic record. A copy of page 23 is attached hereto for insertion into the appeal brief filed November 27, 2006.

The appeal brief in this case is now in condition for review by the Board. Such action is respectfully requested. Any remaining questions or concerns may be directed to the applicant's attorney who signs below.

Respectfully Submitted,



Michelle Bos, PTO Reg. No. 45,499
STRATTON BALLEW PLLC
213 South 12th Avenue
Yakima, WA 98902
Telephone (509) 453-1319
Facsimile (509) 453-4704

10. Related proceedings appendix:

On April 28, 2005, the Board of Patent Appeals and Interferences issued a decision in Application No. 09/590,861, cited as a related appeal in section 2, above. A copy of that decision is attached hereto.